

CHA Panel Presentation

Cormac Nagle OFM, August 2018

Reflections as an ethicist and moral theologian on issues/challenges in the health sector in the last 40 years

The suggested starting date was my sabbatical as a post-doctoral fellow at Catholic University of America. My supervisor was Professor Charles Curran of some notoriety at the time because of his approach to the Encyclical *Humanae Vitae* on contraception. This had positive results in that that the Congregation for the Doctrine of the Faith replied in 1974 with some good pastoral decisions for the application of the teaching. One example from these official replies:

“Question 1.

*Is it permissible for any Catholic whatsoever – a. to teach and /or b. to act practically on the basis of the teaching that : while the condemnation of artificial contraception contained in **Humanae Vitae** represents the teaching of the Church which must be followed in normal human situations, abnormal situations can and do exist in which a married couple acting in good conscience, are justified in using artificial contraception in the circumstances of their particular case?*

Response 1.

In *Humanae Vitae* (H.V.14) contraception is condemned as intrinsically illicit. This doctrine is an authentic expression of the Pontifical magisterium, which must be acknowledged with reverence and sincerely adhered to (L.G. 25) [Vat II, *Lumen Gentium*]. There can, however, be situations in which a couple have, in good faith, come to the erroneous conviction that in their particular case the use of contraceptives is justified. In this case, the use of contraceptives, although objectively unlawful, is subjectively excusable on condition that the judgement of conscience is made on the basis of sufficient information and after serious reflection before God. This is traditional Catholic doctrine on personal conscience as the norm for responsible human action, and was applied to contraception by the Magisterium of various episcopates and of the Holy See itself in the decision in the Washington Case of 26th April 1971. (G.S.16: 50-51) [Vat II, *Gaudium et Spes*].”

1. History

A spirit of legalism and authoritarianism, teaching was the prerogative of authority from above, prevailed in the pre-Vatican II era, especially in the 19th and first half of the 20th centuries, summarised by the words of Pope Benedict XV, 'All know to whom the *magisterium* has been given by God; to this one therefore belongs the complete right to speak as he thinks fit, when he will; the duty of the rest is religiously to comply with the speaker and to be hearers of what is said.'¹ We have at this time the first *Code of Canon Law*, 1917, the condemnations of theologians and exiling of scripture scholars in the Modernist controversy in the early 20th century. Much of this atmosphere prevailed up to Vatican II when new ideas and correct interpretations of tradition were finally welcomed. If you look at the Moral Theology manuals of the period you will see that they followed the chapters of the Code of Canon Law, though there was much good tradition in them.

Although John XXIII asked that the windows be opened and fresh air let in there was a reluctance on the part of Church authorities to follow this through. You had to walk a fairly narrow path to continue in the pastoral tradition of Vatican II. I, myself, was banned in two dioceses of Victoria for something I had not said, but because someone interpreted my mind!

What was missing was an approach to moral and bioethical questions based on the person of Jesus Christ, the teaching of the New Testament, and a proper understanding of the nature of an unfolding tradition, rather than a literal application of the law or church doctrines. Jesus, himself, summed it up: 'The Sabbath was made for man, not man for the Sabbath.'

The Church has made this clear in a declaration, *The Mystery of the Church*² where it is stated that all teachings, including the Bible and Church doctrines must be interpreted, because they are human expressions of our understanding of God, and therefore cannot possibly encompass the whole truth. The Declaration states clearly that we must take into account: **the period** and **culture** in which the teaching was given, **the language** of the time, and the **specific question** that the teaching was meant to address. Thus, there

¹ Encyc. *Ad Beatissimi Apostolorum*, 1914, in Denz.-Sch. 3625. Cf. Pope Francis, 'There is no question you cannot ask.'

² *Mysterium Ecclesiae*, 11 May 1973 CDF.

will be progress in the unfolding and understanding our tradition. It is a **living tradition** as Vatican II and Pope Francis describe it.³ This same spirit of interpretation certainly applies to us who live in a vastly different age of science and technology. Fortunately we have good basic and traditional principles to assist us in making pastoral decisions involving persons.

2. The Tradition applied

A) *Prenatal Screening*: This example came to me recently from another country where a Catholic hospital CEO has hesitated to allow it. Besides the obvious possible negative consequences, prenatal screening can be most important for many other situations for the safety of the mother and safe birth of the child. You need proportionate reasons and a good counselling service based on Catholic teaching. The development of the principle of double effect (an age-old Catholic principle) with an emphasis on proportionate reasons has assisted us in this area of bioethics to cope with the fast developing technology.

B) *Tubal Ligation as preventative medicine*: Direct sterilization has not been allowed by the Church.⁴ But, what about the cases where, for example, the pregnant woman has had several caesars and now assessed that a further pregnancy and caesar will most probably endanger her life and the life of the child. The reproductive organism taken as a whole is in a pathological state, in all probability unable to bear a live child. We note here post Vatican II teaching that marriage is a covenant and sexual relationship. Should we wait until the woman becomes pregnant again and so in grave danger of her life and that of her child or isolate her reproductive organism at this present caesar? It seems that this is genuine preventative medicine. Of course, a Catholic hospital needs to consider possible scandal by examining each case separately and explaining to staff the circumstances of the case.

Conclusion

The Church must be true to Jesus Christ and his teaching, the tradition passed down the centuries. As the Church herself teaches, we have a living tradition that unfolds through times and cultures, endeavouring to comprehend in so far as the human mind can receive it, the unfathomable mind of the Creator.

³ Vatican II, *Dei verbum* 12, also 2. PP Francis Address, 11 Oct 2017.

⁴ See Pope Pius XII, Address, October 1953

As someone has described it: 'the Church is not a text, but a context!'

